

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4140-03
Bill No.: HCS for HB 1030
Subject: Taxation and Revenue - General; Revenue Dept.
Type: Original
Date: February 20, 2012

Bill Summary: This proposal would create a tax amnesty program.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	More than \$100,000	More than \$100,000	More than \$100,000
Total Estimated Net Effect on General Revenue Fund	More than \$100,000	More than \$100,000	More than \$100,000

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 17 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Conservation Commission	Unknown	Unknown	Unknown
Parks, and Soil and Water	Unknown	Unknown	Unknown
School District Trust	Unknown	Unknown	Unknown
Other	Unknown	Unknown	Unknown
Total Estimated Net Effect on <u>Other</u> State Funds	Unknown	Unknown	Unknown

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Local Government	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

ASSUMPTION (continued)

Officials from the **Joint Committee on Administrative Rules** assume that this proposal would not have a fiscal impact to their organization in excess of existing resources.

Officials from the **Office of Administration, Division of Budget and Planning** (BAP) assume this proposal would not result in additional costs or savings to their organization. BAP officials provided the following analysis of the proposal.

Various Sections on Collections and Enforcement

The proposal would increase General and Total State Revenue by improving tax collection procedures on delinquent taxes and/or debt owed to the state. It would allow the Department of Revenue (DOR) to retain 1% of any local sales or use tax collected to cover their costs. The proposal would also give DOR the authority to collect debt on behalf of other state agencies, and would allow DOR to send out certain mailings by first class mail instead of certified mail.

BAP officials deferred to DOR for estimates of the costs and increased revenue collections from these operational efficiencies and programs.

Section 144.190 RSMo - Sales Tax Refunds

The proposal would provide a process for purchasers to seek refunds from DOR when the purchaser has overpaid sales tax. New refund claims would be allowed for those claims that have been denied to vendors since January 1, 2007. DOR has reported to BAP that \$96 million in refund claims, including General and Total State Revenues and local revenues, have been denied since that date. To the extent this proposal would increase refunds, General and Total State Revenues including those for education, and local revenues, may be reduced.

Section 32.383 RSMo - Tax Amnesty Program

The proposal would create an amnesty from accrued penalties and interest on unpaid taxes, if taxes are appropriately filed and paid during a period from August 1, 2012, to October 30, 2012. These provisions appear similar to the amnesty program in FY 2003.

ASSUMPTION (continued)

BAP officials estimated that \$75 million in revenues would be collected, including \$50 million already identified from DOR investigations completed or in process. BAP officials assumed \$50 million is part of the revenue base when the consensus revenue estimates are determined for FY 2013 and future years, and the remaining \$25 million would be "new" revenues from previously unidentified sources. An estimated 84.2% of those amounts would be due to the General Revenue Fund, based on the results of the amnesty program in FY 2003.

Also, BAP officials assumed that the proposed amnesty would persuade taxpayers to settle accounts in a more timely fashion than is typical. Data provided by DOR indicates that 27% of accounts are settled within nine months of being identified by the DOR, with the balance taking up to 36 months or more to settle. BAP assumes the amnesty program would bring all the payments into the three-month amnesty window, about nine months after the end of tax year 2011. These collections would be received in FY 2013, at the expense of later years.

BAP officials assume this proposal would increase General Revenue Fund collections by \$51.8 million in FY 2013, with impacts on Total State Revenue and on the following years. This table shows the BAP estimate of the proposal's impact on the timing of collections.

Total State Revenue	Total	2013	2014	Later years
Amnesty	\$75.0	\$75.0	\$0.0	\$0.0
Normal	(\$50.0)	(\$13.6)	(\$22.8)	(\$13.6)
Net	\$25.0	\$61.4	(\$22.8)	(\$13.6)

General Revenue	Total	2013	2014	Later years
Amnesty	\$63.2	\$63.2	\$0.0	\$0.0
Normal	(\$42.1)	(\$11.4)	(\$19.2)	(\$11.5)
Net	\$21.1	\$51.8	(\$19.2)	(\$11.5)

ASSUMPTION (continued)

Officials from the **Department of Agriculture** and the **Department of Insurance, Financial Institutions, and Professional Registration** assume this proposal would have no fiscal impact on their organizations.

Officials from the **Department of Elementary and Secondary Education** deferred to the Department of Revenue for an estimate of the fiscal impact of this proposal.

Officials from the **Department of Natural Resources** assume this proposal would have an unknown positive fiscal impact on their organization.

Officials from **Clay County** responded to our request for information for a previous version of this proposal but did not provide an estimate of the fiscal impact to their organization.

Officials from **St. Louis County**, the **St. Louis County Board of Elections**, and the **City of Kansas City** assume this proposal would have no fiscal impact to their organizations.

Officials from the **Parkway School District** assumed a previous version of this proposal would create the potential for a loss of revenue to their organization but were not able to provide an estimate of that loss.

Officials from the **Department of Revenue** (DOR) provided the following comments.

Section 32.383 RSMo - Tax Amnesty

These provisions would create an amnesty from the assessment or payment of penalties, additions, and interest imposed on unpaid taxes due on or before December 31, 2011, provided those taxes were reported and paid in full between August 1, 2012 and October 31, 2012

- * Amnesty would not extend to any taxpayer who at the time of payment is a party to any criminal investigation or to any civil or criminal litigation.
- * Upon application by the taxpayer, DOR would not seek to collect any penalty, addition to tax, or interest that may be applicable.

ASSUMPTION (continued)

- * Amnesty would be granted only to those taxpayers who have applied for amnesty, have filed a tax return for each taxable period for which amnesty is requested, have paid the entire balance due within sixty days of approval by DOR, and agree to comply with state tax laws for the next eight years from the date of the agreement.
- * If the taxpayer fails to comply with state tax laws at any time during the eight years following the date of the agreement, all penalties, additions to tax, and interest that were waived under the amnesty agreement would become due and payable immediately.
- * If a taxpayer elects to participate in the amnesty program, that election would constitute an express and absolute relinquishment of all administrative and judicial rights of appeal. No tax payment received under this section would be eligible for refund or credit.
- * Nothing in the proposal could be interpreted to prevent DOR from adjusting a taxpayer's return as a result of a state or federal audit.
- * All payments received as a result of the amnesty program, other than revenues earmarked by the state constitution, would be deposited in the General Revenue Fund.

DOR could create rules to implement the provisions of this section. This proposal would become effective on July 1, 2012, and expire on December 31, 2015; and these provisions include an emergency clause. DOR would create a new amnesty form and notices to issue to taxpayers.

ASSUMPTION (continued)

Administrative impact for Amnesty Program

DOR officials assumed, based on 2011 estimates, that there are approximately 490,000 known taxpayers eligible for amnesty and estimated that postage, envelopes and printing would cost $(490,000 \text{ taxpayers} \times \$0.515) = \$252,350$. In addition, DOR officials assume that the Taxation Division would incur costs totaling approximately \$350,000 for the following:

*	Overtime to review correspondence-	\$100,000
*	Overtime to review errors on returns-	\$73,000
*	Staff time to key returns and process payments-	\$145,000
*	Staff time for customer contacts-	\$30,000

DOR officials also recommended an advertising budget of at least \$400,000.

In the alternative, the state could contract with a private vendor to administer the amnesty program. Contracting with a vendor would avoid the direct costs to the department, and vendor payment could be based on the percentage of the debts collected. A number of states and other political subdivisions have contracted with private vendors to run their amnesty programs and have seen very good results.

Oversight assumes the cost to manage the amnesty program would be less than the cost to employ private vendors. Further, DOR employees and managers would be required to identify the delinquent accounts and approve the waivers of penalties, interest, and additional tax.

Oversight will indicate unknown costs in excess of \$100,000 in FY 2013 for the Department of Revenue to administer the amnesty program.

Section 32.385 RSMo Reciprocal Collection

The Director of Revenue and the Commissioner of Administration could jointly enter into a reciprocal collection and offset of indebtedness agreement with the federal government, under which the state would offset from state tax refunds and other payments to vendors and contractors non tax debt owed to the federal government; and the federal government would offset from federal payments to vendors, contractors, and taxpayers debt owed to the state of Missouri.

ASSUMPTION (continued)

Section 32.410 - 460 RSMo State Debt Collection

State agencies could refer debts owed to them to DOR for collection, and DOR could provide collection services on debts referred to the department by a state agency. This authority would not supersede the authority granted to the attorney general.

Debt could be referred at any time after it becomes delinquent and uncontested, and the debtor has no further administrative appeal. Methods and procedures for referral would be required to follow internal guidelines prepared by DOR. The collection procedures and remedies would be in addition to any other procedure or remedy available by law. The agency would send notices to debtors by U.S. mail at the debtor's last known address.

DOR could use all general remedies afforded creditors of this state in collection of the debt, as well as any remedies afforded the referring state agency, and to the state as a creditor. DOR could not prosecute or defend civil actions on behalf of any other state agency, except as necessary to defend any challenges to a debt referred by a state agency. DOR could employ department staff and attorneys, and at the department's discretion could hire prosecuting attorneys and private collection agencies to collect debts referred by a state agency.

DOR could add ten percent of the total debt referred for the cost of collection, and DOR would have the same authority as the referring department in collecting the debt. DOR could compromise state debt referred to the department in accordance with section 32.378 and any agreement with the referring agency.

DOR and the referring state agencies could exchange such information, including the debtor's Social Security number, as is necessary for the successful collection of the state debt referred, and the referring agency would be required to follow all applicable federal and state laws regarding the confidentiality of information and records regarding the debtor. The confidentiality laws applicable to the particular information received and retained by the agency would apply to the employees of the agency and to DOR.

ASSUMPTION (continued)

Section 105.716 RSMo Legal Expense Fund Payments

Except for payments less than ten thousand dollars for property damage, no funds could be expended from the state legal expense fund for settlement of any liability claim except upon the production of a no tax due statement from DOR.

Section 140.910 RSMo Administrative Liens

DOR could file a certificate of lien in circuit court for the collection of delinquent taxes, and could order any person to withhold and pay over to the department assets belonging to, due, or to become due the taxpayer.

Section 144.190 RSMo Refund Claim Process

A taxpayer applying for a refund could submit a written request for DOR to hold the refund claim pending the outcome of legal proceedings on the same or similar grounds or transactions, and DOR would then hold the claim unprocessed pending the outcome of such legal proceedings.

Administrative impact for collections program

In order to implement the collections procedures in this proposal, DOR officials assume Personal Tax would require a system upgrade at a cost of \$1.5 million, professional services of \$561,000, and postage of \$86,250. In addition the Legal Services Division would require three additional FTE Legal Counsel (Range 28, Step O) and two additional FTE Office Support Assistant - Keyboarding (Range 9, Step L).

The DOR estimate of cost for this part of the proposal including five additional FTE and related employee benefits, equipment, and expense totaled \$128,682 for FY 2013, \$113,470 for FY 2014, and \$114,708 for FY 2015.

Oversight assumes the DOR estimate of expense and equipment cost for the new FTE could be overstated. If DOR is able to use existing desks, file cabinets, chairs, etc., the estimate for equipment for fiscal year 2012 could be reduced by roughly \$6,000.

ASSUMPTION (continued)

Oversight also assumes that these collection provisions would be implemented at the same time as the amnesty program and would be part of a broader upgrade of DOR collections and customer service programs. Accordingly, Oversight will indicate a cost in excess of \$100,000 for FY 2013, FY 2014, and FY 2015 to implement the upgraded collections program.

IT impact

Implementing the proposal would require significant changes to the department's IT systems. DOR officials included an estimate of the IT cost to implement this proposal of \$220,904 based on 8,336 hours of programming for ITSD/DOR to make changes to various tax systems.

Oversight assumes ITSD/DOR is provided with core funding to handle a certain amount of activity each year. Oversight further assumes ITSD/DOR could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, ITSD/DOR could request funding through the budget process.

ASSUMPTION (continued)

Revenue impact - collections program

DOR officials provided an estimate of the additional collections for each of the provisions in this proposal. Amounts are in millions.

Section	Subject	FY 2012 General Revenue Fund	FY 2012 All funds	FY 2013 General Revenue Fund	FY 2013 All funds	FY 2014 General Revenue Fund	FY 2014 All funds
32.028, 32.410, 32.420, 32.420, 32.440, 32.450, 32.460	Centralized State Debt Collection	\$0.750	\$1.000	\$4.000	\$6.000	\$5.000	\$7.000
32.058	Certified mail	\$0.275	\$0.275	\$0.550	\$0.550	\$0.550	\$0.550
32.087	1% Retention	\$0.350	\$0.350	\$0.350	\$0.350	\$0.350	\$0.350
32.385	Reciprocal offset	\$5.700	\$7.000	\$4.100	\$5.100	\$4.000	\$5.000
105.716	Legal Expense Fund	\$0.050	\$0.050	\$0.100	\$0.100	\$0.100	\$0.100
140.910	Garnishment	\$1.500	\$1.500	\$3.000	\$3.000	\$3.000	\$3.000

ASSUMPTION (continued)

Revenue impact - amnesty program

DOR officials stated that a total of \$75 million (\$63 million General Revenue) may be received through amnesty, but \$50 million (\$42 million General Revenue) would have already been identified as outstanding liabilities. DOR assumes that an overwhelming majority of that \$50 million, plus interest and penalties, could be collected without amnesty. Because DOR has processes and personnel in place to collect delinquent taxes, the \$50 million is already taken into consideration when the consensus revenue estimates are determined for FY 2013 and future years.

Oversight has analyzed the DOR estimates of additional tax collections, but we are not able to determine the reasonableness of those estimates since we do not have access to comparable information for similar programs, nor are we able to review any of the supporting documentation for those estimates since the information is confidential. Accordingly, Oversight will indicate additional revenues for the state General Revenue Fund in excess of \$100,000, in addition to the recovery of program costs, for FY 2013, FY 2014, and FY 2015. Oversight will indicate unknown additional revenues for FY 2013, FY 2014, and FY 2015 to the Conservation Commission Fund, and the Parks and Soils and Water Fund, to the School District Trust Fund, to other state funds, and to local governments.

Oversight notes that this proposal would require DOR to deposit all collections from the amnesty program, except for those which are earmarked by the Missouri Constitution, into the state General Revenue Fund. Accordingly, Oversight will indicate a positive fiscal impact greater than \$100,000 from this proposal in FY 2013 for the General Revenue Fund, and an unknown positive fiscal impact for the Conservation Commission Fund, and the Parks and Soils and Water Fund. Other state funds and local governments would receive additional tax collections from the improved collection procedures but would not have a fiscal impact from the amnesty program.

Oversight will include unknown additional revenue to the General Revenue Fund and an unknown revenue reduction to local governments for the 1% collection fee on local government sales taxes which are not currently subject to this fee.

ASSUMPTION (continued)

Oversight assumes that the additional collections would exceed the cost for these programs.

Oversight also notes that this proposal would authorize DOR to waive penalties, interest, and additions to tax which would collected under existing delinquent tax provisions. Oversight assumes the additional taxes collected would exceed the penalties, interest and additional taxes which would otherwise have been collected, and for fiscal note purposes only will indicate an unknown loss of revenue in the General Revenue Fund, the Conservation Commission Fund, and the Parks and Soils Tax Funds in FY 2013 for the potential penalties, interest, and tax additions waived.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE FUND			
<u>Additional revenue</u> - Department of Revenue - Tax amnesty program	<u>More than \$100,000</u>	<u>\$0</u>	<u>\$0</u>
<u>Additional revenue</u> - Department of Revenue - Collection procedures	<u>More than \$100,000</u>	<u>More than \$100,000</u>	<u>More than \$100,000</u>
<u>Additional revenue</u> - Department of Revenue - 1% collection fee	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Cost</u> - Department of Revenue - Tax amnesty program	<u>(More than \$100,000)</u>	<u>\$0</u>	<u>\$0</u>
<u>Cost</u> - Department of Revenue - Collection procedures	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>	<u>(More than \$100,000)</u>
<hr/> <u>Revenue reduction</u> - Department of Revenue - Interest, penalties, and additions to tax waived.	<u>(Unknown)</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>More than \$100,000</u>	<u>More than \$100,000</u>	<u>More than \$100,000</u>

**CONSERVATION COMMISSION
FUND**

<u>Additional Revenue</u> - Tax amnesty program	<u>Unknown</u>	<u>\$0</u>	<u>\$0</u>
<u>Additional Revenue</u> - Collection procedures	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Revenue reduction</u> - interest, penalties, and additions to tax waived.	<u>(Unknown)</u>	<u>\$0</u>	<u>\$0</u>

**ESTIMATED NET EFFECT ON
CONSERVATION COMMISSION
FUND**

<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
-----------------------	-----------------------	-----------------------

**PARKS, AND SOIL AND WATER
FUND**

<u>Additional Revenue</u> - Tax amnesty program	<u>Unknown</u>	<u>\$0</u>	<u>\$0</u>
<u>Additional revenue</u> - Collection procedures	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Revenue reduction</u> - Interest, penalties, and additions to tax waived.	<u>(Unknown)</u>	<u>\$0</u>	<u>\$0</u>

**ESTIMATED NET EFFECT ON
PARKS, AND SOIL AND WATER
FUND**

Unknown	Unknown	Unknown
----------------	----------------	----------------

SCHOOL DISTRICT TRUST FUND

<u>Additional revenue</u> - Department of Revenue - Collection procedures	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
--	----------------	----------------	----------------

ESTIMATED NET EFFECT ON SCHOOL DISTRICT TRUST FUND	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
---	-----------------------	-----------------------	-----------------------

OTHER STATE FUNDS

<u>Additional revenue</u> - Department of Revenue - Collection procedures	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
--	----------------	----------------	----------------

ESTIMATED NET EFFECT ON OTHER STATE FUNDS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
--	-----------------------	-----------------------	-----------------------

<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
---	---------------------	---------	---------

LOCAL GOVERNMENTS

<u>Additional revenue</u> - Department of Revenue - Collection procedures	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
--	----------------	----------------	----------------

<u>Revenue reduction</u> - Department of Revenue - 1% collection fee	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
---	------------------	------------------	------------------

ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
--	-----------------------	-----------------------	-----------------------

FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact to small businesses which have delinquent taxes.

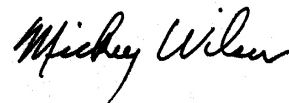
FISCAL DESCRIPTION

This proposal would create a tax amnesty program, and allow the Department of Revenue to implement additional collection procedures for delinquent taxes. The proposal would also create a state debt collection program which the Department of Revenue would administer for the benefit of state agencies.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Office of Administration
 Division of Budget and Planning
Department of Agriculture
Department of Elementary and Secondary Education
 Department of Insurance, Financial Institutions, and Professional Registration
Department of Natural Resources
Department of Revenue
Joint Committee on Administrative Rules
Clay County
St. Louis County
St. Louis County Board of Elections
City of Kansas City
Parkway School District



Mickey Wilson, CPA
Director
February 20, 2012